

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA

AFFIDAVIT

I, Erin North, Deportation Officer, Immigration and Customs Enforcement, United States Department of Homeland Security, being duly sworn, state the following:

1. That your Affiant is a graduate of the Federal Law Enforcement Training Center (“FLETC”) and has been employed as a federal officer of Immigration and Customs Enforcement (“ICE”), formerly the Immigration & Naturalization Service (“INS”), for seventeen years, during which time she has conducted numerous investigations relating to administrative and criminal violations of the Immigration & Nationality Act (“INA”);
2. That the information contained in this Affidavit is based on your Affiant’s personal participation in this investigation and from information provided to your Affiant by other law enforcement officers. This Affidavit is submitted for the limited purpose of presenting facts to support a probable cause finding for the issuance of a criminal complaint against Jesus Alejandro MARQUEZ Rubio, a/k/a Jesus Alejandro Marquez-Rubio, a/k/a Jesus Alejandro Rubio, a/k/a Jesus Rubio, a/k/a Alejandro Marquez-Rubio, a/k/a Jesus Contreras-Marquez (“MARQUEZ Rubio”). Your Affiant has not included each and every fact known to her concerning this investigation and she has set forth only those facts necessary for said purpose;
3. That sufficient facts exist to support a probable cause finding that MARQUEZ Rubio has violated Title 8, United States Code, Section 1326(a)(1) (illegal reentry into the United States by a deported alien);
4. That, on January 13, 2020, MARQUEZ Rubio was cited by the Charlotte Mecklenburg Police Department in Charlotte, North Carolina, for DRIVING WHILE IMPAIRED (Mecklenburg County District Court Docket 2020cr510; Complaint Number 20200113020000; Citation Number C4564271; AC was .16). The Affidavit and Revocation Report included a notation that he admitted to operating a vehicle after 5 beers, urinated on himself, and caused a collision. The associated DMV 349 Crash Report Form stated that he was driving with his high beams shining when he crossed the center line and hit another vehicle head on, which subsequently caused a second collision with another driver. The Citation was issued to Jesus Alejandro Marquez Rubio, listed 9106 Oren Thompson Road, Charlotte, North Carolina, 28213 as his address, and described him as a Hispanic male with July 14, 1986 as his date of birth;
5. That, on August 5, 2020, MARQUEZ Rubio was convicted in Mecklenburg County, North Carolina, District Court for DRIVING WHILE IMPAIRED – Level 5, and he received a sentence of 30 days of confinement, which was suspended for 12 months of probation (Court Docket 2020cr510; Citation Number C4564271; Alcohol Concentration (“AC”) was .16; January 13, 2020, citation date);

6. That, on July 7, 2023, MARQUEZ Rubio was arrested by the Concord, North Carolina, Police Department for DRIVING WHILE IMPAIRED, SPEEDING, DRIVING WHILE LICENSE REVOKED IMPAIRED REVOCATION, and OPEN CONTAINER AFTER CONSUMING ALCOHOL 1ST (Cabarrus County District Court Docket 2023cr353689; AC .18), and he was subsequently transported to the Cabarrus County Jail in Concord. According to the Cabarrus County Sheriff Office Booking Report, he was booked under the name Jesus Alejandro Marquez Rubio, 9106 Oren Thompson Road, Charlotte, North Carolina 28213, with a birthdate of July 14, 1986;
7. That, on July 8, 2023, the Concord Police Department took arrest prints from MARQUEZ Rubio and then submitted them to the FBI pursuant to the federal initiative titled Secure Communities via an Immigration Alien Query. This submission lead to a fingerprint-based report that disclosed that MARQUEZ Rubio was the person identified with FBI Number 878919VC0, Immigration A-file Number 205-733-118, State Identification Numbers NC2239643A and FL06955894. The related immigration records indicated that he had been removed from the United States without record of legal re-entry. On the same day, MARQUEZ Rubio was encountered by Cabarrus County, NC, ICE 287(g) Deputies at the Cabarrus County Jail. These deputies fingerprinted MARQUEZ Rubio and submitted his fingerprints through the Next Generation Identification (NGI) system, which is connected to the National Crime Information Center (NCIC), and, IDENT, an automated biometric identification system used by ICE. The reports generated by that submission disclosed that MARQUEZ Rubio was the person identified with FBI Number 878919VC0, Immigration A-file Number 205-733-118, and State Identification Numbers NC2239643A and FL06955894;
8. That, on July 18, 2023, MARQUEZ Rubio, after being advised of his *Miranda* rights in Spanish and waiving those rights in writing, made, in part, the following statement in response to questioning:
 - a) that his true name is Jesus Alejandro Marquez Rubio;
 - b) that he has never used any other names;
 - c) that his date of birth is July 14, 1986;
 - d) that he was born in Durango, Mexico;
 - e) that he is a citizen of Mexico;
 - f) that he last entered the United States in 2015, illegally, through Texas;
 - g) that he does not have immigration papers;
 - h) that he was previously deported from the United States in Texas;
 - i) that he has never applied to the Attorney General or the Secretary of Homeland Security for permission to re-enter the United States;
 - j) that he knew that it was a violation of federal law to return to the United States without obtaining the Attorney General's or Secretary of Homeland Security's permission to re-enter the United States;
9. That, on July 24, 2023, MARQUEZ Rubio was convicted in Cabarrus County, North Carolina, District Court for DRIVING WHILE IMPAIRED – Level 2, and he received a sentence of 12 months of confinement, which was suspended for 15 days of confinement

and 24 months of supervised probation. Form AOC-CR-311 (Impaired Driving Determination of Sentencing Factors), under the Grossly Aggravating Factors section, stated that the defendant has been convicted of a prior offense involving impaired driving within 7 years before the date of this offense (Court Docket 2023cr353689; AC .18; date of arrest July 7, 2023);

10. That your Affiant conducted criminal justice inquiries and database searches, reviewed Immigration A-file 205-733-118 relating to MARQUEZ Rubio, and discovered that:
- a. his name is Jesus Alejandro MARQUEZ Rubio, per his own declarations;
 - b. he is also known as Jesus Alejandro Marquez-Rubio, Jesus Alejandro Rubio, Jesus Rubio, Alejandro Marquez-Rubio, and Jesus Contreras-Marquez;
 - c. he is citizen of Mexico by virtue of birth in Durango, Mexico, on July 14, 1986, per his own declarations;
 - d. that he has also used July 14, 1985, as his date of birth;
 - e. he was assigned FBI number 878919VC0; State Identification Numbers NC2239643A and FL06955894; North Carolina Department of Adult Corrections Offender ID 1059219; and North Carolina Driver's License Number 41641510;
 - f. on August 24, 2001, he was encountered by Border Patrol Agents at/near El Paso, Texas, determined to be unlawfully present in the United States, and thereafter voluntarily returned to Mexico under the name Jesus Contreras-Marquez;
 - g. on March 4, 2004, he was encountered by Border Patrol Agents at/near Little Tucson, Arizona, determined to be unlawfully present in the United States, and thereafter voluntarily returned to Mexico under the name Alejandro Marquez-Rubio;
 - h. on January 28, 2008, MARQUEZ Rubio was convicted in Rowan County, North Carolina, District Court for DRIVING WHILE IMPAIRED – Level 4, and received a sentence of 120 days confinement, which was suspended for 18 months of supervised probation (related charges for NO OPERATORS LICENSE and FICTITIOUS/ CONCEALED/REVOKED REGISTRATION CARD/TAG under Court Docket 2007cr56662 were dismissed) (Court Docket 2007cr56661; Citation Number C8176651-7; AC .13; date of arrest September 29, 2007);
 - i. on July 21, 2009, the probationary sentence ordered by Rowan County, North Carolina District Court for his January 28, 2008 DRIVING WHILE IMPAIRED conviction was modified and extended for a period of 3 months so he could complete substance abuse treatment by October 28, 2009;
 - j. on September 3, 2009, Rowan County, North Carolina, District Court issued an arrest order because he violated specific conditions of probation as ordered at time of his January 28, 2008, conviction for DRIVING WHILE IMPAIRED;
 - k. on April 12, 2010, he was arrested in Rowan County, North Carolina, for DRIVING WHILE LICENSE REVOKED and ADDITIONAL LIGHTING EQUIPMENT VIOLATION (Court Docket 2010cr52144¹) and served with the September 3, 2009 arrest order issued by the Rowan County District Court because of his probation violation;

¹ On June 21, 2019, the charges under Court Docket 2010cr52144 were dismissed with the notation "Inventory Control and Judicial Efficiency."

- l. on April 23, 2010, the Rowan County, North Carolina, District Court issued an arrest order because MARQUEZ Rubio failed to appear pursuant to a court order and failed to comply with the judgment entered for his DRIVING WHILE IMPAIRED conviction;
 - m. on December 20, 2012, he was encountered by United States Border Patrol at/near Pharr, Texas, determined to be unlawfully present in the United States, and transported to the McAllen, Texas, Border Patrol Station, where designated officials ordered him, under the name Jesus Alejandro Marquez-Rubio, removed from the United States;
 - n. on December 23, 2012, agency form I-296 (Notice to Alien Ordered Removed/Departure Verification) was executed by including his photograph, fingerprint, and signature, and he was removed from the United States to Mexico, on foot, at San Ysidro, California, and he was advised prior to removal that it is a crime after removal from the United States to enter, attempt to enter, or be found in the United States without the express consent of the Secretary of Homeland Security;
 - o. on January 7, 2013, he was encountered by United States Border Patrol at/near Laredo, Texas, determined to be unlawfully present in the United States, and transported to the Laredo, Texas, Sector Processing Center;
 - p. on January 8, 2013, designated officials ordered him, under the name Jesus Alejandro Marquez-Rubio, removed from the United States by/at Laredo, Texas;
 - q. on January 9, 2013, he was convicted in the United States District Court for the Southern District of Texas, Laredo Division, for ILLEGAL ENTRY (Case Number 5:13-po-00250), in violation of Title 8, United States Code, Section 1325(a)(1), and, under the name Jesus Alejandro Marquez-Rubio, he received a sentence of ten days of confinement;
 - r. on January 16, 2013, agency form I-296 (Notice to Alien Ordered Removed/Departure Verification) was executed by including his photograph, fingerprint, and signature, and he was removed from the United States to Mexico, on foot, at Laredo, Texas, being advised prior to removal that it is a crime after removal from the United States to enter, attempt to enter, or be found in the United States without the express consent of the Secretary of Homeland Security;
 - s. on January 26, 2013, he was encountered by United States Border Patrol at/near Hebbronville, Texas, determined to be unlawfully present in the United States, and transported to the Laredo, Texas, Sector Processing Center;
 - t. on January 28, 2013, designated officials in Laredo, Texas reinstated his order of removal;
 - u. on January 31, 2013, agency form I-205 (Warrant of Removal/Deportation) was executed by including his photograph, fingerprint, and signature, and he was removed from the United States to Mexico, on foot, at Calexico, California, being advised prior to removal that it is a crime after removal from the United States to enter, attempt to enter, or be found in the United States without the express consent of the Secretary of Homeland Security;
11. That, on July 27, 2023, after a thorough review of the A-file, your Affiant conducted record checks of immigration indices and was unable to locate any record that MARQUEZ Rubio was granted permission by the Attorney General of the United States

or the Secretary of the Department of Homeland Security to apply for admission to the United States after deportation/removal;

12. That, on July 28, 2023, Supervisory Immigration Services Assistant V. Mangus performed a search for agency form I-212 (Application for Permission to Reapply for Admission into the United States After Deportation or Removal) relating to MARQUEZ Rubio, and she found no record of its existence.

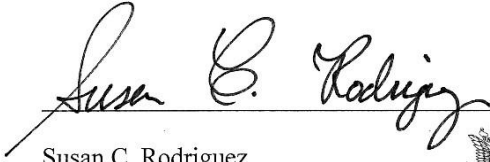
Based on the above information, your Affiant respectfully requests the issuance of a Criminal Complaint against MARQUEZ Rubio.

/s/ Erin North, Deportation Officer
United States Immigration and Customs Enforcement

AUSA Kenneth M. Smith has reviewed this Affidavit.

In accordance with Rule 4.1(b)(2)(A), the Affiant attested under oath to the contents of this Affidavit, which was submitted to me by reliable electronic means, on this 3rd day of August, 2023, at 4:22 pm

Signed: August 3, 2023


Susan C. Rodriguez
United States Magistrate Judge

